

**SEXUAL
HARASSMENT
AWARENESS
AND
PREVENTION
TRAINING
MANUAL**

**Commonwealth of Kentucky
Finance and Administration Cabinet
Office of Equal Employment Opportunity and Contract Compliance**

Revised September 2007

Finance and Administration Cabinet
Office of Equal Employment Opportunity and Contract Compliance

Sexual Harassment Awareness and Prevention Training
Agenda

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PURPOSE

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. The Finance and Administration Cabinet, through the Office of Equal Employment Opportunity and Contract Compliance, is responsible for providing sexual harassment awareness and prevention training to all of its employees. This sexual harassment training manual should be used by employees as a guide for curtailing and eliminating actual and potential sexual harassment activity in the workplace.

LEARNING GOAL

To develop an awareness of how to recognize and prevent sexual harassment in the workplace.

OBJECTIVES

- 1) Recognize sexual harassment issues in the workplace.
- 2) Understand the legal definition of sexual harassment.
- 3) Know specific procedures to follow when taking action on sexual harassment complaints.
- 4) Recognize the two basic types of sexual harassment.
- 5) Learn and understand the Finance and Administration Cabinet's sexual harassment procedure.
- 6) Make managers and employees aware of their responsibilities when confronted with sexual harassment issues, complaints or grievances.

SEXUAL

HARASSMENT

IS

BASED

ON

A

PERCEPTION

It Is

What You Firmly Believe To Be Factual Or True

KEY TERMS

IMPACT

The effect or impression of one thing upon another.

INTENT

That which is intended. The state of mind operative at the time of an action. Having fixed on some purpose.

PERCEPTION

The act, process or faculty of perceiving. The effect or product of perceiving, the insight intuition, or knowledge gained by perceiving. The capacity for such insight.

POWER

The ability or official capacity to exercise control over others. Strength or force exerted or capable of being exerted.

RETALIATION

To punish in kind. To pay back.

REASONABLE PERSON

Capable of reasoning. Governed by or in accordance with reason or sound thinking. Within the bounds of common sense.

Source:

Webster's II New Riverside University Dictionary, Houghton Mifflin Company, One Beacon Street, Boston MA, 02108, Copyright 1984

What Do You Think?

Quiz #1

- 1) Sexual harassment is only illegal if your agency has a policy forbidding it.

True False
- 2) If you observe sexual harassment taking place in the workplace, it is best to let the people involved deal with it between themselves. It is none of your business.

True False
- 3) Is it possible for men to harass men and is it possible for women to harass women?

True False
- 4) If someone lets you know that your behavior makes them feel uncomfortable, you should stop that behavior immediately and not engage in the behavior again.

True False
- 5) If you honestly do not intend to offend anyone, your behavior cannot be considered sexual harassment.

True False
- 6) Sexual harassment is only illegal if a supervisor is harassing a subordinate.

True False
- 7) It is okay to ask a co-worker out on a date, as long as you do not persist in pursuing them if they say no.

True False
- 8) Employees can only report sexual harassment to their direct supervisor.

True False
- 9) You could be held personally liable in court for certain harassment claims.

True False
- 10) If a customer or other non-employee is sexually harassing you, there is nothing your organization can be expected to do about it.

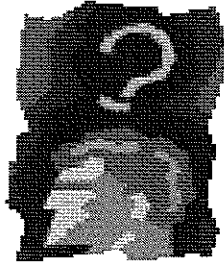
True False

Top Twelve Questions From Managers And Employees Quiz #2

- 1) How do I protect myself from sexual harassment charges?
- 2) Can compliments be a form of sexual harassment?
- 3) If someone is not objecting to the behavior, doesn't that mean the behavior is welcome?
- 4) Can how a person dresses cause sexual harassment?
- 5) How do I know if my behavior is appropriate?
- 6) What should I do if I am sexually harassed?
- 7) What is my obligation as a supervisor for responding to possible sexual harassment situations?
- 8) Is it okay to tell an off-color joke to an individual or to a group?
- 9) What if I am from a culture that is friendly and touchy?
- 10) Do I have to change my behavior because someone might be offended?
- 11) What about my freedom of speech rights when I'm talking to other people individually or in a group?
- 12) Why doesn't the person who is being sexually harassed just tell the person to stop?

Case Studies

Sexual Harassment: Is It Or Isn't It?



The following scenarios have been written to get you as an individual or as a group to think what sexual harassment may or may not be. The purpose of this exercise is to discuss the issues and to identify factors and other conditions that may or may not result in sexual harassment. Dependent on several different outcomes, a group consensus or an individual consensus may not be reached.

- 1) Joan is very attracted to Tom. She has asked him out on dates and written him love letters. Tom told Joan he did not want to date her and never responded to any of her love letters. Joan continues to send Tom love letters and asks him out regularly. Is Joan harassing Tom?
- 2) An office supply salesman stops by your office each month to take your order. Every time he shows up for a sales call he makes suggestive comments to Susie, your secretary. At first, Susie attempts to ignore it; but, the salesman becomes more persistent. Is Susie being harassed? Can she file a sexual harassment complaint?
- 3) Bob is a registered nurse at a local doctor's office. His co-workers are all female. Bob has overheard and has references made to him about him doing woman's work. Are Bob's co-workers harassing him?

- 4) John, who is a career employee, has always been known to give bear hugs as greetings to his co-workers. Fred, a new employee, is greeted with one of John's bear hugs at a department picnic. Fred goes to his supervisor and expresses concern over John's behavior. Is John harassing Fred?
- 5) Bud and Alex work in an office environment that is made up of cubicles. Bud is having an affair with a woman in the office. Alex often overhears Bud and Bud's female friend having conversations about their activities outside of work that are sexual in nature. Is Alex being harassed by Bud and Bud's female friend?
- 6) Jane works at a correctional facility as an officer. Her co-workers are predominately male. Jane is often subjected to jokes that are sexual in nature and she perceives them as demeaning to women. However, Jane will normally listen to the jokes and laugh with the others. Is Jane being harassed?
- 7) Betty and Norman are co-workers who recently divorced their spouses. Norman asked Betty out on a date and they ended up spending the night together. Betty and Norman form an ongoing relationship. Does this constitute sexual harassment?
- 8) Steve and Jill work in the same unit. Although their area is divided from many of the others, they do not have a partition between them. On several occasions, Steve has displayed a swimsuit calendar behind his desk. One afternoon, Jill said she thought the swimsuit calendar was offensive. Does the display of the swimsuit constitute sexual harassment?

LET'S TAKE A BREAK!!!

Legal Definition Of Sexual Harassment



The United States Equal Employment Opportunity Commission Guidelines under Section 1604.11 define sexual harassment as:

_____ sexual advances, request for sexual favors, and other
_____ or physical conduct of a sexual nature when:

- 1) Submission to such conduct by an individual is made explicitly or
_____ a term or condition of an individual's employment;

OR

- 2) Submission to or rejection of such conduct by an individual is used as the basis for _____ decisions affecting such individual;

OR

- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's _____ or creating an intimidating, hostile, or offensive work _____.

Types Of Sexual Harassment

The United States Equal Employment Opportunity Commission Guidelines under section 1604.11 breaks down sexual harassment into two types.

1) _____

Means “this for that” and is committed only by someone who has the power to control the victim’s job destiny; when an employee suffers or is threatened with some kind of “pocketbook” injury. Example: A supervisor or someone else with authority over the victim demands the employee submit to a sexual request(s) or be fired, demoted, intimidated, passed over for a job promotion, or in some other way made miserable on the job.

2) _____

Means a supervisor, or co-worker, or someone else with whom the victim comes in contact on the job creates an abusive work environment or interferes with the employee’s work performance through words or deeds because of the victim’s gender. A sexually hostile work environment can be created by:

- discussing sexual activities;
- unnecessary touching;
- commenting on physical attributes;
- displaying sexually suggestive pictures;
- using demeaning or inappropriate terms, such as babe;
- using unseemly gestures;
- ostracizing or excluding or banishing or not recognizing one gender by those of another;
- granting job favors to those who participate in consensual sexual activity; or using crude and offensive language

When Does An Environment Become Sexually Hostile?

Factors Considered by the Courts

Factors considered by the courts in determining whether the behavior has become severe enough or pervasive enough to create a hostile environment include:

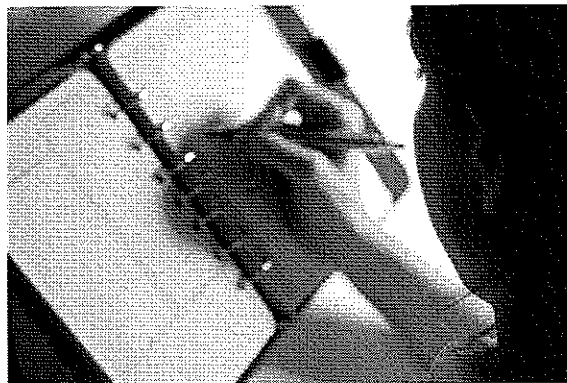
- Whether or not the conduct was physical or verbal;
- How frequently the conduct was repeated;
- Whether or not the conduct was hostile and blatantly offensive;
- Whether or not the harasser was a coworker or a supervisor;
- Whether or not the harassment was instigated by more than one person;
- Whether or not the harassment was directed at more than one person.

How to Prevent Sexual Harassment

- 1) Always conduct yourself in a professional and businesslike manner.
- 2) Always dress and act appropriately for the job.
- 3) Do not participate in any conversation of a sexual nature.
- 4) Understand your right to work in an environment free from discrimination based on sexual activity.
- 5) Be prepared to assert these rights.
- 6) Become and stay acquainted with the sexual harassment policy and procedures for reporting sexual harassment.
- 7) Before taking action or making a comment to take a few minutes to stop and decide, ahead of time, what kind of action you would take if you were harassed.

What To Do If You Are Sexually Harassed

- 1) Be direct. Make your displeasure clearly and promptly known.
- 2) Document the date, time, place, what was said or done, and names of any individuals who may have witnessed the incident(s).
- 3) Refuse to participate in the unwelcome conduct.
- 4) Remain cool and professional.
- 5) If the behavior continues, consult with your supervisor, Cabinet EEO Coordinator, EEO Counselor or personnel officer for advice on appropriate action to be taken.
- 6) When reporting the harassment, be prepared to tell all of the facts surrounding the incident. Your notes should always include key information—who, what, where, when, how, and why (as appropriate).



Three Crucial Steps Managers Should Take In Handling A Sexual Harassment Complaint



1) Take the complaint.

Act on the complaint _____. Get the basic information—who, what, when, where, why and how—as appropriate.

2) Notify EEO.

_____ the alleged incident to the Finance and Administration Cabinet, Office of Equal Employment Opportunity and Contract Compliance (EEO/CC) at 502-564-2874—**THIS IS MANDATORY**. EEO/CC will determine whether an investigation or other course of action is necessary. (Note: you should also notify appropriate individuals in your chain of command.)

3) Support the investigative process.

If an investigation is required, _____ EEO/CC with the investigation.

Note:

Should an investigation find a violation(s) of the sexual harassment procedure, the Finance and Administration Cabinet, Division of Human Resources will issue final, appropriate disciplinary action. This action may include reprimand, suspension and/or termination, etc.

POLICY STATEMENT ON HARASSMENT PREVENTION

The Commonwealth of Kentucky does not tolerate harassment of any kind. All employees must avoid offensive or inappropriate behavior at work and are responsible for assuring that the workplace is free from harassment at all times. Types of prohibited conduct include, but are not necessarily limited to, harassment because of one's race, color, national origin, sex, age, religion, veteran status or disability.

Examples of prohibited conduct include, but are not limited to, threatening, offensive or unwelcome conduct, including abusive verbal language directed toward an individual because of sex, race, color, age, religion, national origin, or disability; lewd or obscene comments about an individual's body, attire, or gender, including abusive comments or terminology addressed to a specific employee; vulgar or indecent gestures, language, or jokes; bringing or displaying a lewd or obscene object, book, magazine, photograph, cartoon, calendar, picture, or similar item into the workplace; or use of computers to transmit, solicit, display, or download lewd or obscene messages or materials.

Complaints of harassments will be promptly and carefully investigated, and all employees are assured that they will be free from any and all reprisal or retaliation from filing such complaints. Any employee who has a complaint of harassment at work by anyone, including supervisors, co-workers, visitors, clients, or customers, has a duty to immediately bring the problem to the attention of agency officials or the Personnel Cabinet. Employees may bring the complaint to the attention of any supervisor, the agency personnel officer, the agency EEO coordinator, the State EEO Coordinator at (502) 573-0321. Any supervisor receiving a complaint of harassment shall report the complaint to appropriate agency personnel. Failure to do so shall be grounds for disciplinary action. Copies of all complaints and investigation results shall be forwarded to the State EEO Coordinator.

The investigation will include, but not be limited to, interviews with all relevant persons including the complainant, the accused, and other potential witnesses. Employees are assured that the privacy of the complainant and the person accused of harassment shall be protected to the fullest extent permitted by the circumstances.

The appropriate host agency will review its findings with the complainant at the conclusion of the investigation. If the investigation reveals that the complaint appears to be valid, immediate and appropriate corrective action, up to and including discharge will be taken to stop harassments and prevent its recurrence.

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ISSUED BY: OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE	
EFFECTIVE DATE: 3/03/05 Revised 11/13/07	
PROCEDURE # 2.5	
SUBJECT: Sexual Harassment	
DISTRIBUTION CODE: A, B, C, D	CONTACT: Executive Director – EEO and Contract Compliance (502) 564-2874

I. PURPOSE

The purpose of this procedure is to clearly establish that the Finance and Administration Cabinet (Cabinet) prohibits sexual harassment either by or of its employees. Sexual harassment is a prohibited personnel practice and a violation of state and federal law.

This procedure explains steps for handling allegations or suspicions of sexual harassment. All allegations shall be fully investigated and corrective or disciplinary action taken, up to and including dismissal from employment, as warranted.

In order to provide a working environment free of sexual harassment for Cabinet employees, the Cabinet will promptly and thoroughly investigate all complaints of sexual harassment. All Cabinet employees are assured that they will be free from any and all retaliation from filing such complaints and from participating in investigations.

II. DEFINITION OF SEXUAL HARASSMENT

The Equal Employment Opportunity Commission's (EEOC) Guidelines on Discrimination Because of Sex, Part 1064, provides the following guidelines identifying sexual harassment. Harassment based on sex is a violation of Section 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment can take place in a variety of situations that include but are not limited to:

1. The victim and the harasser may be either gender.
2. The victim does not have to be of the opposite sex.
3. The harasser can be a supervisor, manager, an agent of the employer, co-worker or non-employee.

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4. The victim does not have to be the direct target of the harasser but may be anyone offended by the conduct.

Examples of sexual harassment that shall not be tolerated, include, but are not limited to:

1. Written, suggestive or obscene letters, notes and invitations;
2. Verbal, derogatory comments, epithets, slurs or jokes;
3. Physical, impending or blocking movements, unnecessary touching of an individual, e.g. patting, pinching, hugging or repeated brushing against another employee's body;
4. Visual, sexually-oriented gestures, displaying sexually suggestive or derogatory objects, pictures, cartoons or posters;
5. Requesting or demanding sexual favors accompanied by implied or overt promise of preferential treatment or threats concerning an individual's employment status;
6. Nonverbal sexual conduct such as leering, ogling, whistling, posing or circulating sexual materials or pictures, and making vulgar hand gestures.

III. PROCEDURE

All claims of sexual harassment will be reviewed and resolved in accordance with the following procedure:

A. Reporting Sexual Harassment

Employees have a variety of options for reporting allegations of sexual harassment. Any employee who believes they are a victim of sexual harassment at work by supervisors, managers, co-workers, visitors, clients, or customers, should immediately bring the problem to the attention of agency officials, any supervisor or manager, EEO Counselors, the Cabinet EEO Coordinator, the personnel manager or the Personnel Cabinet.

In addition to the information stated above, employees and job applicants may chose to file sexual harassment complaints with any of the Human Rights Commission offices or the federal Equal Employment Opportunity Commission (EEOC).

B. Cabinet Investigation

The Cabinet's Office of Equal Opportunity and Contract Compliance shall promptly investigate all complaints. Employees are assured that, to the extent possible, the privacy of the complainant and the person accused of sexual harassment shall be kept confidential. Information concerning the complaint shall not be released to third parties or anyone who is

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not involved with the investigation under the Open Records Act. Nor shall anyone involved be permitted to discuss the subject outside the investigation. The purpose of this provision is to 1) protect the confidentiality of the employee who files a complaint, 2) to encourage the reporting of any incidents of sexual harassment, and 3) to protect the reputation of any employee wrongfully charged with sexual harassment.

The Cabinet's Office of Equal Employment Opportunity and Contract Compliance will review findings with the complainant at the conclusion of the investigation.

C. Corrective or Disciplinary Action

According to the outcome of the investigation, the Cabinet shall, as appropriate:

1. Assure that all parties are reacquainted with the sexual harassment procedure;
2. Take appropriate disciplinary action, up to and including termination, if the investigation determines that sexual harassment or other prohibited behavior did occur;
3. Mandate specific training, counseling and follow-up.
4. Provide any information requested by the State EEO Coordinator.

These measures shall be implemented to stop the harassment or other prohibited behavior, prevent the sexual harassment or other prohibited behavior from recurring, and educate affected parties.

IV. RESPONSIBILITIES

A. CABINET RESPONSIBILITIES

The Cabinet shall in all cases:

1. Maintain a non-hostile work environment.
2. Maintain an atmosphere where all employees are safe to report sexual harassment without fear of retaliation.
3. Assure that all complaints of sexual harassment are immediately investigated.
4. Assure that all suspicions of illegal conduct are immediately investigated.

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B. SUPERVISOR/MANAGER RESPONSIBILITIES

When an employee advises any supervisor or manager about an allegation of sexual harassment, the supervisor or manager shall:

1. Advise the employee that the allegation shall be thoroughly investigated;
2. Immediately notify the agency EEO Counselor and the Cabinet EEO Coordinator.

When the supervisor or manager witnesses or is made aware of potential sexual harassment, the supervisor or manager shall immediately notify the agency EEO Counselor and the Cabinet EEO Coordinator.

Responsibility for reporting potential sexual harassment is not limited to employees under the direct control of the manager or supervisor. Supervisors and managers shall immediately report suspected harassment in any Cabinet location to the EEO Counselor and Cabinet EEO Coordinator.

C. CABINET EEO COORDINATOR RESPONSIBILITIES

The Cabinet EEO Coordinator shall:

1. Provide guidance to employees, supervisors and managers regarding the Cabinet's sexual harassment procedures.
2. Ensure all new employees receive sexual harassment awareness and prevention training as part of new employee orientation.
3. Ensure all employees, supervisors and managers receive sexual harassment awareness and prevention training at least once every two (2) years.
4. Provide training to all EEO counselors appropriate to their duties.
5. Notify the Division of Human Resources and the Office of General Counsel regarding potential sexual harassment.
6. Maintain investigative reports.

D. EEO COUNSELOR RESPONSIBILITIES

The EEO Counselor shall:

1. Know procedures for handling sexual harassment complaints.

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2. Ensure that the sexual harassment procedures are posted in a location accessible to all employees.
3. Immediately notify the Cabinet EEO Coordinator when a sexual harassment complaint is received.

V. DISCIPLINE FOR VIOLATIONS

Any employee determined to have violated the Sexual Harassment Procedure shall be subject to disciplinary action, including, but not limited to reprimand, fine, demotion, suspension and dismissal.

VI. REFERENCES

Kentucky Commission on Human Rights
<http://kchr.ky.gov/>

U.S. EEOC Louisville office
<http://www.eeoc.gov/louisville/index.html>

State EEO Coordinator
<http://personnel.ky.gov/eeodiversity/>

U.S. EEOC website
<http://www.eeoc.gov/>

NO STANDARD PROCEDURE MAY BE REVISED BY ADDENDUM, MEMORANDUM OR ANY OTHER MEANS OTHER THAN THOSE SET OUT IN STANDARD PROCEDURE # 1.1 ENTITLED "CREATION, REVISION AND RESCISSION OF FINANCE AND ADMINISTRATION CABINET PROCEDURES AND MANUAL."

DISTRIBUTION CODES:

**A. Senior Management B. Division Directors C. Branch Managers/Supervisors
D. Cabinet Personnel E. Division Personnel F. Branch Personnel G. Attached Agencies**

GRIEVANCE FORM

A GRIEVANCE IS A COMPLAINT CONCERNING A TERM OR CONDITION OF EMPLOYMENT OVER WHICH THE EMPLOYEE'S AGENCY HAS CONTROL. A GRIEVANCE MUST BE FILED WITHIN THIRTY (30) DAYS OF THE OCCURRENCE OR DISCOVERY OF THE EVENT. IF THIS GRIEVANCE CONCERNS AN ACTION APPEALABLE DIRECTLY TO THE PERSONNEL BOARD PURSUANT TO KRS 18A.095, YOUR RIGHT TO FILE AN APPEAL WITH THE PERSONNEL BOARD IS NOT EXTENDED BEYOND THE SIXTY (60) DAY APPEAL PERIOD OR OTHERWISE AFFECTED BY THE FILING OF A GRIEVANCE.

Please Print

NAME: _____ SOCIAL SECURITY NO: _____
(Last) (First)

(Last)

(First)

JOB CLASSIFICATION: _____

(Department)

(Division)

(Branch)

(Work Location)

(Work Phone)

WHAT IS YOUR GRIEVANCE? (Please state facts and be specific as to the date, place and individuals involved. Attach additional pages as necessary.)

WHAT SPECIFIC SOLUTION DO YOU RECOMMEND TO RESOLVE YOUR GRIEVANCE?

☐ In accordance with 101 KAR 1:375, Section 3, I choose to file this grievance with my second line supervisor.

Section 3, I choose to file this grievance with my second line supervisor.

Date:

FINDINGS AND DECISION OF SUPERVISOR: (Must be completed within five (5) work days of receipt of grievance.)

(Supervisor's Signature)

(Title)

(Date)

☐ I accept this decision.

☐ I appeal this decision to the next level.
(Must be requested within two (2) work days of receipt of supervisor's decision.)

Employee's Signature: _____

Date:

SECOND LEVEL REVIEW

FINDINGS AND DECISION:

(Signature)

(Title)

(Date)

☐ I accept this decision.

☐ I appeal this decision to the next level.

(Employee's Signature)

(Date)

THIRD LEVEL REVIEW

FINDINGS AND DECISION:

(Signature)

(Title)

(Date)

☐ I accept this decision.

☐ I appeal this decision to the next level.

(Employee's Signature)

(Date)

FINAL SUPERVISORY REVIEW

FINDINGS AND DECISION:

(Signature)

(Title)

(Date)

☐ I concur with this decision.

☐ I appeal this decision to the appointing authority for a final determination. (Must be filed within two (2) work days of final line supervisor's response.)

(Employee's Signature)

(Date)

IF YOUR GRIEVANCE IS NOT APPEALABLE TO THE PERSONNEL BOARD UNDER THE PROVISIONS OF KRS 18A.095, THE DETERMINATION OF YOUR AGENCIES' APPOINTING AUTHORITY IS FINAL.

Options Available For Individuals Who Believe They Are Being Harassed



- 1) Contact your immediate supervisor or any member of upper management
- 2) Contact the Cabinet EEO Coordinator's Office (502-564-2874)
- 3) Contact your agency EEO Counselor
- 4) File a Grievance
- 5) Contact the Kentucky Commission on Human Rights (502-595-4024)
- 6) Contact the State EEO Coordinator, Personnel Cabinet (502-573-0321)
- 7) Contact the State Personnel Board (502-564 -7830)
- 8) Contact the United States Equal Employment Opportunity Commission (502-582-6083 or 1-800-669-4000)
- 9) Contact the Kentucky Employee Assistance Program (KEAP) (502-564-5788)